

COUNCIL REGULATION (EEC) No 737/90

of 22 March 1990

on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas, following the accident at the Chernobyl nuclear power-station on 26 April 1986, considerable quantities of radioactive elements were released into the atmosphere;

Whereas 3955/87¹, as amended by 4003/89², fixed maximum permitted levels of radioactivity for agricultural products originating in third countries and intended for human consumption with which imports of the products concerned must comply and in connection with which checks are carried out by the Member States; whereas that Regulation applies only until 31 March 1990;

Whereas, without prejudice to the possibility of resorting, where necessary, in the future to the provisions of Council Regulation (Euratom) No 3954/87 of 22 December 1987 laying down maximum permitted radioactivity levels for foodstuffs and feedingstuffs following a nuclear accident or any other case of radiological emergency³, as amended by Regulation (Euratom) No 2218/89⁴, the Community must continue to ensure, with regard to the specific effects of the accident at Chernobyl, that agricultural products and processed agricultural products intended for human consumption and likely to be contaminated are introduced into the Community only according to common arrangements;

Whereas these common arrangements should safeguard the health of consumers, maintain, without having unduly adverse effects on trade between the Community and third countries, the unified nature of the market and prevent deflections of trade;

Whereas the reasons prevailing when Regulation (EEC) No 3955/87 was adopted are still valid, particularly on account of the fact that radioactive contamination in certain agricultural products originating in the third countries affected by the

accident still exceed the maximum permitted levels of radioactivity laid down in that Regulation;

Whereas compliance with the maximum permitted levels must be the subject of appropriate checks, which may lead to prohibiting imports in cases of non-compliance;

Whereas radioactive contamination in many agricultural products has decreased and will continue to decrease to the levels existing before the Chernobyl accident; whereas a procedure should therefore be established enabling such products to be excluded from the scope of the abovementioned Regulation;

Whereas, since this Regulation covers all agricultural products and processed agricultural products intended for human consumption, there is no need, in the present case, to apply the procedure provided for in Article 29 of Directive 72/462/EEC⁵;

Whereas, in order to clarify or adjust, as necessary, the measures provided for by this Regulation, a simplified procedure should be established,

HAS ADOPTED THIS REGULATION:

Article 1

With the exception of the products unfit for human consumption listed in Annex I and those products which may come to be excluded from the scope of this Regulation pursuant to the procedure laid down in Article 7, this Regulation shall apply to the products originating in third countries covered by:

- Annex II to the Treaty,
- Council Regulation (EEC) No 2730/75 of 29 October 1975 on glucose and lactose⁶, as amended by Commission Regulation (EEC) No 222/88⁷,
- Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin⁸, as amended by Commission Regulation (EEC) No 4001/87⁹,

¹ OJ No L 371, 30. 12. 1987, p. 14.

² OJ No L 382, 30. 12. 1989, p. 4.

³ OJ No L 371, 30. 12. 1987, p. 11.

⁴ OJ No L 211, 27. 7. 1989, p. 1.

⁵ OJ No L 302, 31. 12. 1972, p. 28.

⁶ OJ No L 281, 1. 11. 1975, p. 20.

⁷ OJ No L 28, 1. 2. 1988, p. 1.

⁸ OJ No L 282, 1. 11. 1975, p. 104.

⁹ OJ No L 377, 31. 12. 1987, p. 44.

- Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products¹⁰, as amended by Commission Regulation (EEC) No 3743/87¹¹,
- Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds¹², as last amended by Regulation (EEC) No 3209/88¹³.

Article 2

Without prejudice to other provisions in force, the release for free circulation of the products referred to in Article 1 shall be subject to compliance with the maximum permitted levels laid down in Article 3.

Article 3

The maximum permitted levels referred to in Article 2 shall be as follows:

the accumulated maximum radioactive level in terms of caesium-134 and -137 shall be:

- 370 Bq/kg for milk and milk products listed in Annex II and for foodstuffs intended for the special feeding of infants during the first four to six months of life, which meet, in themselves, the nutritional requirements of this category of person and are put up for retail sale in packages which are clearly identified and labelled 'food preparation for infants'¹⁴,
- 600Bq/kg for all other products concerned.

Article 4

1. Member States shall check compliance with the maximum permitted levels set in Article 3 in respect of the products referred to in Article 1, taking into account contamination levels in the country of origin. Checking may also include the presentation of export certificates. Depending on the results of the checks carried out, Member States shall take the measures required for Article 2 to apply, including the prohibition of release for free circulation, taking each case individually or generally for a given product.

2. Each Member State shall provide the Commission with all information concerning the application of this Regulation, notably cases of non-compliance with the maximum permitted levels. The Commission shall circulate such information to the other Member States.

Article 5

Where cases of repeated non-compliance with the maximum permitted levels have been recorded, the necessary measures may be taken in accordance with the procedure laid down in Article 7. Such measures may even include the prohibition of the import of products originating in the third country concerned.

Article 6

The arrangements for applying this Regulation, any amendments to be made to the products in Annex I, and the list of products excluded from this Regulation shall be adopted in accordance with the procedure laid down in Article 7.

Article 7

1. The Commission shall be assisted by an *ad hoc* committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately.

However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

¹⁰ OJ No L 323, 29. 11. 1980, p. 1.

¹¹ OJ No L 352, 15. 12. 1987, p. 29.

¹² OJ No L 323, 29. 11. 1980, p. 27.

¹³ OJ No L 286, 20. 10. 1988, p. 6.

¹⁴ The level applicable to concentrated or dried products shall be calculated on the basis of the reconstituted product as ready for consumption.

Article 8

This Regulation shall enter into force on 1 April 1990.

It shall expire on 31 March 1995, unless the Council decides otherwise at an earlier date, particularly should the list of excluded products referred to in Article 6 cover all the products fit for human consumption to which this Regulation applies.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1990.

For the Council

The President

P. FLYNN

ANNEX I

Products unfit for human consumption

CN code	Description
ex 0101 19 90	Racehorses
ex 0106 00 99	Other (live animals, excluding domestic rabbits and pigeons: not for human consumption)
ex 03 01	Live ornamental fish
0408 11 90	Eggs, not in shell, and egg yolks, unfit for human consumption (a)
0408 19 90	
0408 91 90	
0408 99 90	
ex 0504	Non-edible guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
0511 10 00	Animal products not elsewhere specified or included, excluding edible animal blood; dead animals
ex 0511 91 90	of Chapter 1 or Chapter 3, unfit for human consumption
0511 99 10	
0511 99 90	
0713 20 10	Dried leguminous vegetables, shelled, whether or not skinned or split, for sowing
0713 31 10	
0713 32 10	
0713 33 10	
0713 39 10	
0713 40 10	
0713 50 10	
0713 90 10	
1001 90 10	Spelt for sowing (a)
1005 10 11	Hybrid maize for sowing (a)
1005 10 13	
1005 10 15	
1005 10 19	
1006 10 10	Rice for sowing (a)
ex 1007 00 00	Hybrid sorghum for sowing (a)
1201 00 10	Oil seeds and oleaginous fruit, whole or broken, for sowing (a)
1202 10 10	
1204 00 10	
1205 00 10	
1206 00 10	
1207 10 10	
1207 20 10	
1207 30 10	
1207 40 10	
1207 50 10	
1207 60 10	
1207 91 10	
1207 92 10	
1207 99 10	
1209 11 00	Seeds, fruit and spores, of a kind used for sowing
1209 19 00	
1209 21 00	
1209 23 10	
1209 24 00	
1209 26 00	
1209 30 00	
1209 91	
1209 99	
1501 00 11	Lard and other pig fat for industrial uses other than the manufacture of foodstuffs for human consumption (a)
1502 00 10	Fats of bovine animals, sheep or goats, raw or rendered, whether or not pressed or solvent-extracted, for industrial uses other than the manufacture of foodstuffs for human consumption (a)
1503 00 11	Lard stearin and oleostearin for industrial uses (a)
1503 00 30	Tallow oil for industrial uses other than the manufacture of foodstuffs for human consumption (a)

CN code	Description
1505 10	Wool grease and fatty substances derived therefrom (including lanolin)
1507 10 10	Soya bean oil and its fractions, whether or not refined; but not chemically modified, for technical uses other than the manufacture of foodstuffs for human consumption (a)
1507 90 10	
1508 10 10	Ground-nut oil and its fractions, whether or not refined but not chemically modified, for technical or industrial uses other than the manufacture of foodstuffs for human consumption (a)
1508 90 10	
1511 10 10	Crude palm oil and its fractions, whether or not refined, but not chemically modified, for technical or industrial uses other than the manufacture of foodstuffs for human consumption (a)
1515 30 10	Castor oil and its fractions for the production of aminoundecanoic acid for use in the manufacture of synthetic textile fibres or of artificial plastic materials (a)
1515 40 00	Tung oil and its fractions
1515 90 10	Oiticica oils, myrtle wax and Japan wax; their fractions
1511 90 91	Other oils for technical or industrial uses other than the manufacture of foodstuffs for human consumption (a)
1512 11 90	
1512 19 10	
1512 19 90	
1512 21 10	
1512 29 10	
1513 11 10	
1513 19 30	
1513 21 11	
1513 21 19	
1513 29 30	
1514 10 10	
1514 90 10	
1515 11 00	
1515 19 10	
1515 21 10	
1515 29 10	
1515 50 11	
1515 50 91	
1515 90 21	
1515 90 31	
1515 90 40	
1515 90 60	
1516 20 91	
1516 20 99	
1518 00 31	Fixed vegetables oils, fluid, mixed, for technical or industrial uses other than the manufacture of foodstuffs for human consumption (a)
1518 00 39	
2207 20 00	Ethyl alcohol and other spirits; denatured, of any strength
3823 10 00	Prepared binders for foundry moulds or cores
4501	Natural cork, raw or simply prepared; waste cork; crushed granulated or ground cork
5301 10 00	Flax, raw or processed but not spun
5301 21 00	
5301 29 00	
5302	True hemp (<i>Cannabis sativa</i> L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)
ex Chapter 6	Live trees and other plants; bulbs, roots and the like, cut flowers and ornamental foliage, excluding plants and roots of chicory of subheading 0601 20 10

(a) Entry under this subheading is subject to conditions laid down in the relevant Community provisions.

ANNEX II

Milk and milk products to which a maximum permitted level of 370 Bq/kg applies

CN codes	0401
	0402
	0403 10 11 to 39
	0403 90 11 to 69
	0404